

**ASSEMBLY BILL**

**No. 327**

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**Introduced by Assembly Member Perea**

February 13, 2013

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An act to amend Section 739.1 of, and to repeal and add Section 739.9 of, the Public Utilities Code, relating to energy utility rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 327, as introduced, Perea. Electricity: natural gas: rates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary to supply a significant portion of the reasonable energy needs of the average residential customer and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Existing law requires the commission, in establishing the baseline rates, to avoid excessive rate increases for residential customers. Existing law requires the commission to establish a program of assistance to specified low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program.

Existing law revises certain prohibitions upon raising residential electrical rates adopted during the energy crisis of 2000–01, to authorize the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year

plus 1%, but not less than 3% and not more than 5% per year. Existing law additionally authorizes the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase in benefits under the CalWORKs program, as defined, not to exceed 3%, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program. Existing law states the intent of the Legislature that CARE program participants be afforded the lowest possible electric and gas rates and, to the extent possible, be exempt from additional surcharges attributable to the energy crisis of 2000–01.

This bill would repeal the limitations upon increasing the electric service rates of residential customers, including the rate increase limitations applicable to electric service provided to CARE customers. When the commission approves changes to electric service rates charged to residential customers, the bill would require the commission to determine that the changes are reasonable, including that the changes are necessary in order to ensure that the rates paid by residential customers are fair, equitable, and reflect the costs to serve those customers. The bill would require the commission to consider specified principles in approving any changes to electric service rates. The bill would require the commission to report to the Legislature its findings and recommendations relating to tiered residential electric service rates in a specified rulemaking by January 31, 2014. The bill would delete the statement of Legislative intent that CARE program participants be afforded the lowest possible electric and gas rates and, to the extent possible, be exempt from additional surcharges attributable to the energy crisis of 2000–01.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 739.1 of the Public Utilities Code is
- 2 amended to read:
- 3 ~~739.1. (a) As used in this section, the following terms have~~
- 4 ~~the following meanings:~~
- 5 ~~(1) “Baseline quantity” has the same meaning as defined in~~
- 6 ~~Section 739.~~

1     ~~(2) “California Solar Initiative” means the program providing~~  
2 ~~ratepayer funded incentives for eligible solar energy systems~~  
3 ~~adopted by the commission in Decision 05-12-044 and Decision~~  
4 ~~06-01-024, as modified by Article 1 (commencing with Section~~  
5 ~~2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with~~  
6 ~~Section 25780) of Division 15 of the Public Resources Code.~~

7     ~~(3) “CalWORKs program” means the program established~~  
8 ~~pursuant to the California Work Opportunity and Responsibility~~  
9 ~~to Kids Act (Chapter 2 (commencing with Section 11200) of Part~~  
10 ~~3 of Division 9 of the Welfare and Institutions Code).~~

11     ~~(4) “Public goods charge” means the nonbypassable separate~~  
12 ~~rate component imposed pursuant to Article 7 (commencing with~~  
13 ~~Section 381) of Chapter 2.3 and the nonbypassable system benefits~~  
14 ~~charge imposed pursuant to the Reliable Electric Service~~  
15 ~~Investments Act (Article 15 (commencing with Section 399) of~~  
16 ~~Chapter 2.3).~~

17     ~~(b) (1)–~~

18     ~~739.1. (a) The commission shall establish~~ *continue* a program  
19 of assistance to low-income electric and gas customers with annual  
20 household incomes that are no greater than 200 percent of the  
21 federal poverty guideline levels, the cost of which shall not be  
22 borne solely by any single class of customer. The program shall  
23 be referred to as the California Alternate Rates for Energy or CARE  
24 program. The commission shall ensure that the level of discount  
25 for low-income electric and gas customers correctly reflects the  
26 level of need.

27     ~~(2) The commission may, subject to the limitation in paragraph~~  
28 ~~(4), increase the rates in effect for CARE program participants for~~  
29 ~~electricity usage up to 130 percent of baseline quantities by the~~  
30 ~~annual percentage increase in benefits under the CalWORKs~~  
31 ~~program as authorized by the Legislature for the fiscal year in~~  
32 ~~which the rate increase would take effect, but not to exceed 3~~  
33 ~~percent per year.~~

34     ~~(3) Beginning January 1, 2019, the commission may, subject~~  
35 ~~to the limitation in paragraph (4), establish rates for CARE program~~  
36 ~~participants pursuant to this section and Sections 739 and 739.9,~~  
37 ~~subject to both of the following:~~

38     ~~(A) The requirements of subdivision (b) of Section 382 that the~~  
39 ~~commission ensure that low-income ratepayers are not jeopardized~~  
40 ~~or overburdened by monthly energy expenditures.~~

~~(B) The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.~~

~~(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding tier 1, tier 2, and tier 3 rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund any other program that exempts CARE participants from paying the charge.~~

~~(5) Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to 80 percent of the corresponding rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any other charge imposed to fund a program that exempts CARE participants from paying the charge. For an electrical corporation that does not have a tier 3 CARE rate that introduces a tier 3 CARE rate, the initial rate shall be no more than 150 percent of the CARE baseline rate. Any additional revenues collected by an electrical corporation resulting from the adoption of a tier 3 CARE rate shall, until the utility's next periodic general rate case review of cost allocation and rate design, be credited to reduce rates of residential ratepayers not participating in the CARE program with usage above 130 percent of baseline quantities.~~

~~(e)~~

~~(b) The commission shall work with electrical and gas corporations to establish penetration goals. The commission shall authorize recovery of all administrative costs associated with the implementation of the CARE program that the commission determines to be reasonable, through a balancing account~~

1 mechanism. Administrative costs shall include, but are not limited  
2 to, outreach, marketing, regulatory compliance, certification and  
3 verification, billing, measurement and evaluation, and capital  
4 improvements and upgrades to communications and processing  
5 equipment.

6 ~~(d)~~

7 (c) The commission shall examine methods to improve CARE  
8 enrollment and participation. This examination shall include, but  
9 need not be limited to, comparing information from CARE and  
10 the Universal Lifeline Telephone Service (ULTS) to determine  
11 the most effective means of utilizing that information to increase  
12 CARE enrollment, automatic enrollment of ULTS customers who  
13 are eligible for the CARE program, customer privacy issues, and  
14 alternative mechanisms for outreach to potential enrollees. The  
15 commission shall ensure that a customer consents prior to  
16 enrollment. The commission shall consult with interested parties,  
17 including ULTS providers, to develop the best methods of  
18 informing ULTS customers about other available low-income  
19 programs, as well as the best mechanism for telephone providers  
20 to recover reasonable costs incurred pursuant to this section.

21 ~~(e)~~

22 (d) (1) The commission shall improve the CARE application  
23 process by cooperating with other entities and representatives of  
24 California government, including the California Health and Human  
25 Services Agency and the Secretary of California Health and Human  
26 Services, to ensure that all gas and electric customers eligible for  
27 public assistance programs in California that reside within the  
28 service territory of an electrical corporation or gas corporation,  
29 are enrolled in the CARE program. To the extent practicable, the  
30 commission shall develop a CARE application process using the  
31 existing ULTS application process as a model. The commission  
32 shall work with public utility electrical and gas corporations and  
33 the Low-Income Oversight Board established in Section 382.1 to  
34 meet the low-income objectives in this section.

35 (2) The commission shall ensure that an electrical corporation  
36 or gas corporation with a commission-approved program to provide  
37 discounts based upon economic need in addition to the CARE  
38 program, including a Family Electric Rate Assistance program,  
39 utilize a single application form, to enable an applicant to  
40 alternatively apply for any assistance program for which the

1 applicant may be eligible. It is the intent of the Legislature to allow  
2 applicants under one program, that may not be eligible under that  
3 program, but that may be eligible under an alternative assistance  
4 program based upon economic need, to complete a single  
5 application for any commission-approved assistance program  
6 offered by the public utility.

7 ~~(f)~~

8 (e) The commission's program of assistance to low-income  
9 electric and gas customers shall, as soon as practicable, include  
10 nonprofit group living facilities specified by the commission, if  
11 the commission finds that the residents in these facilities  
12 substantially meet the commission's low-income eligibility  
13 requirements and there is a feasible process for certifying that the  
14 assistance shall be used for the direct benefit, such as improved  
15 quality of care or improved food service, of the low-income  
16 residents in the facilities. The commission shall authorize utilities  
17 to offer discounts to eligible facilities licensed or permitted by  
18 appropriate state or local agencies, and to facilities, including  
19 women's shelters, hospices, and homeless shelters, that may not  
20 have a license or permit but provide other proof satisfactory to the  
21 utility that they are eligible to participate in the program.

22 ~~(g) It is the intent of the Legislature that the commission ensure~~  
23 ~~CARE program participants are afforded the lowest possible~~  
24 ~~electric and gas rates and, to the extent possible, are exempt from~~  
25 ~~additional surcharges attributable to the energy crisis of 2000-01.~~

26 ~~(h)~~

27 (f) (1) In addition to existing assessments of eligibility, an  
28 electrical corporation may require proof of income eligibility for  
29 those CARE program participants whose electricity usage, in any  
30 monthly or other billing period, exceeds 400 percent of baseline  
31 usage. The authority of an electrical corporation to require proof  
32 of income eligibility is not limited by the means by which the  
33 CARE program participant enrolled in the program, including if  
34 the participant was automatically enrolled in the CARE program  
35 because of participation in a governmental assistance program. If  
36 a CARE program participant's electricity usage exceeds 400  
37 percent of baseline usage, the electrical corporation may require  
38 the CARE program participant to participate in the Energy Savings  
39 Assistance Program (ESAP), which includes a residential energy  
40 assessment, in order to provide the CARE program participant

1 with information and assistance in reducing his or her energy usage.  
2 Continued participation in the CARE program may be conditioned  
3 upon the CARE program participant agreeing to participate in  
4 ESAP within 45 days of notice being given by the electrical  
5 corporation pursuant to this paragraph. The electrical corporation  
6 may require the CARE program participant to notify the utility of  
7 whether the residence is rented, and if so, a means by which to  
8 contact the landlord, and the electrical corporation may share any  
9 evaluation and recommendation relative to the residential structure  
10 that is made as part of an energy assessment, with the landlord of  
11 the CARE program participant. Requirements imposed pursuant  
12 to this paragraph shall be consistent with procedures adopted by  
13 the commission.

14 (2) If a CARE program participant's electricity usage exceeds  
15 600 percent of baseline usage, the electrical corporation shall  
16 require the CARE program participant to participate in ESAP,  
17 which includes a residential energy assessment, in order to provide  
18 the CARE program participant with information and assistance in  
19 reducing his or her energy usage. Continued participation in the  
20 CARE program shall be conditioned upon the CARE program  
21 participant agreeing to participate in ESAP within 45 days of a  
22 notice made by the electrical corporation pursuant to this paragraph.  
23 The electrical corporation may require the CARE program  
24 participant to notify the utility of whether the residence is rented,  
25 and if so, a means by which to contact the landlord, and the  
26 electrical corporation may share any evaluation and  
27 recommendation relative to the residential structure that is made  
28 as part of an energy assessment, with the landlord of the CARE  
29 program participant. Following the completion of the energy  
30 assessment, if the CARE program participant's electricity usage  
31 continues to exceed 600 percent of baseline usage, the electrical  
32 corporation may remove the CARE program participant from the  
33 program if the removal is consistent with procedures adopted by  
34 the commission. Nothing in this paragraph shall prevent a CARE  
35 program participant with electricity usage exceeding 600 percent  
36 of baseline usage from participating in an appeals process with the  
37 electrical corporation to determine whether the participant's usage  
38 levels are legitimate.

39 (3) A CARE program participant in a rental residence shall not  
40 be removed from the program in situations where the landlord is

1 nonresponsive when contacted by the electrical corporation or  
2 does not provide for ESAP participation.

3 SEC. 2. Section 739.9 of the Public Utilities Code is repealed.

4 ~~739.9. (a) The commission may, subject to the limitation in~~  
5 ~~subdivision (b), increase the rates charged residential customers~~  
6 ~~for electricity usage up to 130 percent of the baseline quantities,~~  
7 ~~as defined in Section 739, by the annual percentage change in the~~  
8 ~~Consumer Price Index from the prior year plus 1 percent, but not~~  
9 ~~less than 3 percent and not more than 5 percent per year. For~~  
10 ~~purposes of this subdivision, the annual percentage change in the~~  
11 ~~Consumer Price Index shall be calculated using the same formula~~  
12 ~~that was used to determine the annual Social Security Cost of~~  
13 ~~Living Adjustment on January 1, 2008. This subdivision shall~~  
14 ~~become inoperative on January 1, 2019, unless a later enacted~~  
15 ~~statute deletes or extends that date.~~

16 ~~(b) The rates charged residential customers for electricity usage~~  
17 ~~up to the baseline quantities, including any customer charge~~  
18 ~~revenues, shall not exceed 90 percent of the system average rate~~  
19 ~~prior to January 1, 2019, and may not exceed 92.5 percent after~~  
20 ~~that date. For purposes of this subdivision, the system average rate~~  
21 ~~shall be determined by dividing the electrical corporation's total~~  
22 ~~revenue requirements for bundled service customers by the adopted~~  
23 ~~forecast of total bundled service sales.~~

24 ~~(c) This section does not require the commission to increase~~  
25 ~~any residential rate or place any restriction upon, or otherwise~~  
26 ~~limit, the authority of the commission to reduce any residential~~  
27 ~~rate.~~

28 SEC. 3. Section 739.9 is added to the Public Utilities Code, to  
29 read:

30 739.9. (a) In approving changes to the rates and charges to  
31 residential customers for electricity usage pursuant to this part, the  
32 commission shall determine that the changes are reasonable,  
33 including determining that the changes are necessary in order to  
34 ensure that the rates and charges paid by residential customers are  
35 fair, equitable, and reflect the costs to serve those customers.

36 (b) In approving any changes to the rates and charges to  
37 residential customers for electricity usage pursuant to this part, the  
38 commission shall consider the following principles:

39 (1) Low income and medical baseline customers should have  
40 access to a supply of electricity that is sufficient to ensure basic



1 needs at an affordable cost, including a reasonable implementation  
2 schedule for changes in rates to ensure that the implementation of  
3 rate changes to residential customers do not unfairly burden low  
4 income customers and that sufficient outreach and education is  
5 provided to the customers affected by the changes.

6 (2) Rates should be based on marginal cost and cost causation.

7 (3) Rates should encourage conservation and energy efficiency,  
8 including reduction of both coincident and noncoincident peak  
9 demand.

10 (4) Rates should be understandable to consumers and provide  
11 stability, simplicity, and customer choice.

12 (5) Rates should avoid cross-subsidies, unless the cross-subsidies  
13 are reasonable, transparent to customers, and support explicit state  
14 residential electricity policy goals.

15 (c) By no later than January 31, 2014, the commission shall  
16 report to the Legislature its findings and recommendations relating  
17 to tiered residential electric service rates pursuant to its Order  
18 Instituting Rulemaking in Rulemaking 12-06-013.